

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH WAYNE LEAMING,

Plaintiff,

v.

KRISHNAN SRINIVASAN, *et al.*,

Defendants.

CASE NO. C23-0888-JCC

ORDER

This matter comes before the Court on the referral notice from the United States Court of Appeals for the Ninth Circuit (Dkt. No. 14). The Ninth Circuit referred this matter for the limited purpose of determining whether *in forma pauperis* status should continue for Plaintiff Kenneth Wayne Leaming's appeal or whether the appeal is frivolous or taken in bad faith. (*Id.*)

"An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). "[A]n appeal is not taken in good faith . . . if there is some evident improper motive or if no issue is presented which is not plainly frivolous." *Tweedy v. United States*, 276 F.2d 649, 651 (9th Cir. 1960); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) ("If at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted.").

Ms. Leaming's complaint failed to establish (a) the relief sought, (b) the conduct supporting that relief, (c) the individuals or entities against whom Defendant seeks relief, (d) the

1 legal theory supporting this relief, and/or (e) the basis of this Court's jurisdiction. (*See generally*  
2 Dkt. No. 5) On appeal, Mr. Leaming clarifies the intent of the complaint was to seek judicial  
3 review of an administrative decision, however, he fails to identify a specific grievance in the  
4 administrative record, and fails to show that the administration decision is ripe for judicial review.<sup>1</sup>  
5 (Dkt. No. 11 at 2–4.) Thus, the appeal is frivolous because it lacks an arguable basis in law. *See*  
6 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

7 Accordingly, the Court CERTIFIES that Ms. Leaming's appeal is not taken in good faith  
8 and REVOKES Ms. Leaming's *in forma pauperis* status. The Court respectfully DIRECTS the  
9 Clerk to send this order to the Court of Appeals.

10 DATED this 25th day of July 2023.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE

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24 <sup>1</sup> Ripeness seeks to “prevent the courts, through avoidance of premature adjudication,  
25 from entangling themselves in abstract disagreements over administrative policies, and also to  
26 protect the agencies from judicial interference until an administrative decision has been  
formalized and its effect felt in a concrete way by the challenging parties.” *Abbott Laboratories*  
*v. Gardner*, 387 U.S. 136, 148–49 (1967).